IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Bail Appl..No. 4699 of 2007()

CRIME NO. 17/03 OF THUMBA POLICE STATION
LP.35/2007 of J.M.F.C.-II,TRIVANDRUM

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PETITIONER/5TH ACCUSED

S.PRADEEP, S/O.SASI,
PUTHUVALMANAKKAD, MEDANADA,
KORALAMKUZHY, KULATHUR,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.M.PAREETH
SRI.G.BIJU

RESPONDENTS: RESPONDENT

STATE OF KERALA, REPRESENTED BY
STATION HOUSE OFFICER, THUMBA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT.
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4699 of 2007

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Dated this the 3rd day of August, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 436 r/w. 149 I.P.C. He is the 5th accused in the crime. Investigation is complete. Final report has already been filed. Committal proceedings was registered. The petitioner was not available to be proceeded against. The case against the petitioner was split up and committed already. The same is pending before the learned Sessions Judge. The case against the petitioner is now transferred to the list of long pending cases.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate

on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in

charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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